IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Gerard VERGNAUD, et al.

Appln. No.: 10/647,255

Confirmation No.: 3044

Filed: August 26, 2003

Docket No: Q76973

Group Art Unit: 2445

Examiner: Joshua JOO

For: A METHOD AND A SERVER FOR ALLOCATING LOCAL AREA NETWORK
     RESOURCES TO A TERMINAL ACCORDING TO THE TYPE OF TERMINAL

SUBMISSION OF APPEAL BRIEF

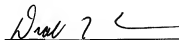MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

     Submitted herewith please find an Appeal Brief. The statutory fee of $540.00 is being

remitted. The USPTO is directed and authorized to charge all required fees, except for the Issue

Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any

overpayments to said Deposit Account.

Respectfully submitted,

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Date: April 18, 2011

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For: A METHOD AND A SERVER FOR ALLOCATING LOCAL AREA NETWORK
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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS
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Sir:

     In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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I.   REAL PARTY IN INTEREST

Based on the information supplied by Appellant, and to Appellant's legal representatives' knowledge, the real party in interest is the Assignee, <u>ALCATEL</u>.

II.   RELATED APPEALS AND INTERFERENCES

To the best of their knowledge, there are no other related appeals or interferences known to Appellant, Appellant's legal representatives or the assignee that will directly affect, be affected by, or have a bearing on the Board's decision in the instant appeal.

III.   STATUS OF CLAIMS

Claims 1-9, 11-15, 17-35, 37-41, 43, and 44 are all the claims pending in the application.

Claims 1-9, 11-15, 17-35, 37-41, 43, and 44 have been finally rejected and are the subject of this

appeal. The pending claims are set forth in the Appendix.

IV.   STATUS OF AMENDMENTS

The Amendment filed on January 18, 2011, subsequent to the Final Office Action dated October 18, 2010, was entered as indicated in the Advisory Action dated February 1, 2011.

V.   SUMMARY OF THE CLAIMED SUBJECT MATTER

An exemplary embodiment is directed to a processing server for allocating to user terminals resources of a local area network (*see e.g., Fig. 1, element 10, page 9, lines 31-36*). The server is connected to at least one local area network access point, and the server includes: a control module (*see e.g., Fig. 1, element 11, page 10, lines 30-32*), which: classifies the terminals into a first group or a second group according to whether or not the terminals establish an encrypted communication with the local area network (*see e.g., page 10, line 34 – page 11, line 8*); and allocates resources of the local area network to the terminals attempting to establish communication with the local area network as a function of whether the terminals are classified in the first group or the second group (*see e.g., page 11, line 9 – line 14*). The control module allocates at least two priority levels to the terminals for the allocation of resources of the local area network according to whether the terminals are classified in the first group or the second group and automatically modifies an allocated priority level as a function of the available resources of the local area network (*see e.g., page 11, line 9 – line 14*). *See., e.g., claim 1.*

Another exemplary embodiment is directed to a method of allocating resources of a local area network to user terminals via at least one access point to the local area network. The method includes: in the case of an attempt at setting up a connection with the local area network by a terminal of said terminals, classifying the terminal in a first group or a second group according to whether or not said terminal establishes an encrypted connection with the local area network (*see e.g., page 10, line 34 – page 11, line 8*); and allocating resources of the local area network to the terminal as a function of whether the terminal is classified in said first group or said second group, wherein at least two levels of priority for allocation of resources of the local

area network are allocated to terminals according to whether the terminals are classified in the

first group or the second group and wherein an allocated priority level is automatically modified

as a function of the available resources of the local area network (*see e.g., page 11, line 9 – line

14*).

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed, including the statute applied, the claims subject

to each rejection and the references relied upon by the Examiner are as follows:

1. Claims 1-9, 11-14, 17, 21-35, 37-40 and 43 are rejected under 35 U.S.C. § 103(a) as

allegedly being unpatentable over Hagen (US Patent Application Publication No.

2002/0075844), in view of Yamaguchi, (U.S. Patent Application Publication No. 2002/0178365)

and Brewer et al. (US Patent No. 7,002,980).

2. Claims 15, 18 and 41 are rejected under 35 U.S.C. § 103(a) as allegedly being

unpatentable over Hagen, in view of Yamaguchi, Brewer and Immonen et al. (US Patent

Application Publication No. 2002/0132611).

3. Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as allegedly being

unpatentable over Hagen, in view of Yamaguchi, Brewer and Sisodia et al. (US Patent

Application Publication No. 2003/0165128).

4. Claim 44 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over

Hagen, in view of Yamaguchi, Brewer, and Bichot et al. (US Patent Application Publication No.

2003/0214929 (Bichot hereinafter)).

VII.   ARGUMENT

A.   Neither Hagen, Yamaguchi, nor Brewer, alone or in combination, renders the claimed invention, as recited in claims 1-9, 11-14, 17, 21-35, 37-40, and 43, unpatentable under 35 U.S.C. § 103(a).

Brief descriptions of the applied references are as follows.

Hagen is directed to a system and method for providing ubiquitous public network access to wireless, mobile terminals using private networks having private network access points and connections with the public network. The wireless, mobile terminals are permitted to use wireless, radio frequency communication devices comprising private network access points. A network access server (NAS) is associated with each wireless, radio frequency communication device and provides an interface between the wireless, mobile terminals and the private network. The NAS controls registration of wireless, mobile terminals as subscribers, and provides public network access to the mobile terminals through the private network's access point and public network connection. The NAS also restricts access by the mobile terminals to the private network, meters network useage by the mobile terminals, and controls use of bandwidth by the mobile terminals. The NAS also interfaces with integration operator distributed services over the public network. The integration operator services include databases and servers for storing and providing subscriber and network provider information for subscriber registration, network access and useage control, and accounting purposes. The NAS may be provided as a standalone element embodied in a computer, or may be integrated with the wireless radio frequency device and/or a network adaptor device for the private network. *See Abstract of Hagen.*

Yamaguchi is directed to a method and system for controlling a network, such as a computer network. A computer network connection is established between one or more

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computers or computing devices and an intermediate device to which network resources are

connected. There is a controlling of a level of access of the computer or computing device to the

network resources based on the level of security of the computer network connection between

the computer or computing device and the intermediate device. Such a controlling may be

performed by the intermediate device, a separate firewall device, and/or components of a

network operating system or network controlling software. The computing devices are connected

to the intermediate device using a wireless connection, although as an alternative a wired

connection may be utilized. *See Abstract of Yamaguchi.*

  Brewer is directed to an invention where, in a multi-QOS level queuing structure, packet

payload pointers are stored in multiple queues and packet payloads in a common memory pool.

Algorithms control the drop probability of packets entering the queuing structure. Instantaneous

drop probabilities are obtained by comparing measured instantaneous queue size with calculated

minimum and maximum queue sizes. Non-utilized common memory space is allocated

simultaneously to all queues. Time averaged drop probabilities follow a traditional Weighted

Random Early Discard mechanism. Algorithms are adapted to a multi-level QOS structure,

floating point format, and hardware implementation. Packet flow from a router egress queuing

structure into a single egress port tributary is controlled by an arbitration algorithm using a rate

metering mechanism. The queuing structure is replicated for each egress tributary in the router

system. *See Abstract of Brewer.*

Claim Rejections - 35 U.S.C. § 103

Claims 1-9, 11-14, 17, 21-35, 37-40, and 43 are rejected under 35 U.S.C. § 103(a) as

allegedly being unpatentable over Hagen, in view of Yamaguchi, and further in view of Brewer.

Appellants submit the following in traversal.

Claim 1

Claims claim 1 recites, in part, "<u>wherein said control module</u> allocates at least two

priority levels to the terminals for said allocation of resources of the local area network

according to whether the terminals are classified in said first group or said second group and

<u>automatically modifies an allocated priority level as a function of the available resources of said</u>

<u>local area network</u>."

The Examiner applies Brewer to allegedly satisfy the above-quoted feature.

First, Appellants submit that even if, assuming *arguendo,* the updating service plan of

Hagen corresponds to the claimed "modif[ying] an allocated priority level", Hagen fails to

disclose or suggest "wherein said control module… <u>automatically modifies an allocated priority</u>

<u>level as a function of the available resources of said local area network</u>".

Instead, Hagen requires a subscriber to <u>manually</u> upgrade the service plan, for example,

from a non-priority plan to a priority plan (see paragraph [0183], lines 22-25 of Hagen).

Additionally, Appellants submit that one of ordinary skill in the art would understand that

a bandwidth is not a priority level and therefore, altering bandwidth allocation disclosed in

paragraph [0112] of Hagen <u>does not</u> correspond to the claimed "modif[ying] an allocated priority

level."

The Examiner apparently agreed with the arguments above and applies Brewer to allegedly satisfy the above-quoted features. While Brewer does discuss priority levels, Brewer only discusses priority levels with respect to <u>bandwidths that are pre-allocated to specific QOS levels</u>. Again, even if *arguendo* Brewer discuss adjusting bandwidth in the invention thereof, there is no teaching or reasonable suggestion of <u>automatically modifying an allocated priority level as a function of the available resources of said local area network.</u> As submitted previously, a bandwidth is NOT a priority level. Therefore, at least based on the foregoing, Appellants submit that the Examiner has not satisfied the burden of establishing a *prima facie* case of obviousness.

In view of the above, Appellants submit that claim 1 is patentably distinguishable over the applied references.

For reasons analogous to those submitted above with respect to claim 1, Appellants submit that independent claim 28 is also patentable.

Claims 2-9, 11-14, 17, 21-27, 29-35, 37-40 and 43, which depend from claims 1 or 28, are patentable at least by virtue of their dependencies.

Claims 15, 18, and 41 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, and Brewer, and further in view of Immonen. Appellants submit the following in traversal.

Immonen does not make up for the above noted deficiencies of Hagen, Brewer and Yamaguchi with respect to independent claims 1 and 8. Accordingly, claims 15, 18, and 41, which depend from claims 1 or 28, are patentable at least by virtue of their dependencies.

Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, Brewer, in view of Sisodia. Appellants submit the following in traversal.

Sisodia does not make up for the above noted deficiencies of Hagen, Yamaguchi, and Brewer with respect to independent claim 1. Accordingly, claims 19 and 20, which depend from claim 1, are patentable at least by virtue of their dependencies.

Claim 44 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, Brewer, in view of Bichot. Appellants submit the following in traversal.

Bichot does not make up for the above noted deficiencies of Hagen, Yamaguchi, and Brewer with respect to independent claim 28. Accordingly, claim 44, which indirectly depends from claim 28, is patentable at least by virtue of its dependency.

VIII.   CONCLUSION

The statutory fee (37 C.F.R. §41.37(a) and 1.17(c)) is being remitted. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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WASHINGTON OFFICE

23373

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Date: April 18, 2011

CLAIMS APPENDIX

CLAIMS 1-9, 11-15, 17-35, 37-41, and 43 ON APPEAL:

1.   A processing server for allocating to user terminals resources of a local area network, said server connected to at least one local area network access point, said server comprising:

a control module, which:

classifies the terminals into a first group or a second group according to whether or not the terminals establish an encrypted communication with said local area network; and

allocates resources of said local area network to the terminals attempting to establish communication with said local area network as a function of whether the terminals are classified in said first group or said second group,

wherein said control module allocates at least two priority levels to the terminals for said allocation of resources of the local area network according to whether the terminals are classified in said first group or said second group and automatically modifies an allocated priority level as a function of the available resources of said local area network.

2.   The server according to claim 1, wherein said control module determines a MAC address of each of said terminals attempting to establish communication with said local area network; and

said processing server further comprises means for allocating an IP address to each of said terminals attempting to establish communication with said local area network, and having the MAC address determined by said control module.

3.   The server according to claim 2, wherein said allocation means are of the DHCP type.

4.   The server according to claim 2, further comprising a memory for storing a table containing primary MAC addresses associated with first terminals of said terminals, said first terminals exchange data frames encrypted in accordance with at least one format.

5.   The server according to claim 4, wherein said table contains secondary MAC addresses associated with second terminals of said terminals, said second terminals exchange unencrypted data frames.

6.   The server according to claim 5, wherein:

said control module determines whether an extracted MAC address, extracted from a received frame, is one of said primary or secondary MAC addresses and,

if said determination is affirmative, said control module sends the allocation means a request to allocate a primary IP address to a terminal corresponding to said extracted MAC address, to allow said terminal corresponding to said extracted MAC address to set up a link with at least one first remote network and one second remote network and,

if said determination is negative, said control module sends the allocation means a request to allocate a secondary IP address to the terminal corresponding to said extracted MAC address, referred to as a third terminal, to allow said third terminal to set up a connection with at least one second remote network.

7.   The server according to claim 6, characterized in that said first terminals are associated with said at least one first remote network.

8. The server according to claim 6, characterized in that said second terminals belong to known users of said at least one first remote network.

9. The server according to claim 6, wherein:

each first remote network is selected from a group comprising private networks, IP data networks, and public switched telephone networks; and

each second remote network is selected from a group comprising IP data networks and public switched telephone networks.

11. The server according to claim 1, wherein primary MAC addresses and secondary MAC addresses in a table are stored in corresponding relationship to at least one of said priority levels.

12. The server according to claim 11, wherein said priority levels comprise:

at least one first priority level allocated to first terminals associated with primary MAC addresses; and

one second priority level allocated to second terminals associated with secondary MAC addresses.

13. The server according to claim 12, wherein said control module allocates a third priority level for allocation of resources of the local area network to a third terminal setting up communications not encrypted in accordance with said at least one format and whose MAC addresses are not in a table.

14. The server according to claim 11, wherein said priority levels apply at least to a bandwidth, and said bandwidth decreases from a first level to a third level.

15.   The server according to claim 14, wherein said control module sends said access point data representative of said bandwidth assigned to a designated terminal, and said access point allocates corresponding resources to said designated terminal.

17.   The server according to claim 1, said server is connected to said local area network by a cable connection.

18.   The server according to claim 17, said cable connection being an Ethernet link.

19.   The server according to claim 1, said server is connected to said local area network by a radio link.

20.   The server according to claim 19, wherein said radio link is a 802.11b radio link.

21.   A router, including a processing server according to claim 1.

22.   A local area network access point, including a processing server according to claim 1.

23.   A communication installation comprising:

at least one local area network accessible via at least one access point;

at least one first remote network;

at least one second remote network; and

a processing server according to claim 1, which is connected to said access point and said first and second remote networks.

24.   An installation according to claim 23, wherein said local area network is a wireless local area network.

25.   An installation according to claim 23, wherein said processing server is connected to said first remote network via a virtual private network.

26.   An installation according to claim 23, wherein said processing server is connected to said first remote network via a remote access server.

27.   An installation according to claim 23, wherein:

each said first remote network is chosen from a group comprising private networks, IP data networks, and public switched telephone networks ; and

each said second remote network is selected from a group comprising IP data networks and public switched telephone networks.

28.   A method of allocating resources of a local area network to user terminals via at least one access point to said local area network, said method comprising:

in the case of an attempt at setting up a connection with said local area network by a terminal of said terminals, classifying said terminal in a first group or a second group according to whether or not said terminal establishes an encrypted connection with said local area network; and

allocating resources of said local area network to said terminal as a function of whether said terminal is classified in said first group or said second group,

wherein at least two levels of priority for allocation of resources of the local area network are allocated to terminals according to whether the terminals are classified in said first group or said second group and wherein an allocated priority level is automatically modified as a function of the available resources of said local area network.

29.   The method according to claim 28, further comprising:

in the event of an attempt by said terminal to set up a connection with said local area network, determining a MAC address of said terminal, and allocating an IP address to said terminal.

30.   The method according to claim 29, further comprising:

providing a table containing primary MAC addresses associated with first terminals of said terminals, said first terminals exchange data frames encrypted in accordance with at least one format.

31.   The method according to claim 30, wherein said table contains secondary MAC addresses associated with second terminals of said terminals, said second terminals exchange unencrypted data frames.

32.   The method according to claim 31, further comprising:

making a determination as to whether an extracted MAC address, extracted from a received frame, is one of said primary or secondary MAC addresses; and

if said determination is affirmative, allocating a primary IP address to the terminal corresponding to said extracted MAC address to allow said terminal to set up a connection with at least one first remote network and one second remote network; and

if said determination is negative, allocating a secondary IP address to the terminal corresponding to said extracted MAC address, referred to as a third terminal, to allow said third terminal to set up a connection with a least one second remote network.

33.   The method according to claim 32, wherein said first terminals are associated with said at least one first remote network.

34.   The method according to claim 32, wherein said second terminals belong to known users of said at least one first remote network.

35.   The method according to claim 32, wherein:

each first remote network is selected from a group comprising private networks, IP data networks, and public switched telephone networks; and

each second remote network is selected from a group comprising IP data networks and public switched telephone networks.

37.   The method according to claim 28, wherein primary MAC addresses and secondary MAC address in a table are stored in corresponding relationship to at least one of said priority levels.

38.   The method according to claim 37, wherein said priority levels comprise :

at least one first priority level allocated to first terminals associated with primary MAC addresses; and

at least one second priority level allocated to second terminals associated with secondary MAC addresses.

39.   The method according to claim 38, wherein a third priority level for allocation of resources of the local area network is allocated to a third terminal setting up communications that are not encrypted in accordance with said at least one format and whose MAC addresses are not in a table.

40.   The method according to claim 32, wherein said priority levels relate at least to a bandwidth. and said bandwidth decreases from the first level to the third level.

41.   The method according to claim 40, wherein said access point is sent data representative of said bandwidth assigned to a designated terminal, and said access point allocates corresponding resources to said designated terminal.

43.   The method according to claim 28, wherein said local area network is selected from the group comprising PLMN, PABX private networks, and private communication gateways.

44.   The method according to claim 43, wherein the PLMN is a mobile network selected from the group comprising GSM, GPRS, and UMTS networks.

EVIDENCE APPENDIX

NONE.

RELATED PROCEEDINGS APPENDIX

NONE.